

Inventors: Maurizio Zanetti
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Claims 1-33 are pending and have been restricted under
35 U.S.C. § 121 into the following groups:

Group I: Claims 1, 2 and 5-17, directed to a
method of stimulating an immune response
by administering a nucleic acid molecule
encoding epitopes which may fuse with a
cytokine;

Group II: Claims 3, 4, 18-21, and 29-32, directed
to a nucleic acid molecule and its use
in a method of stimulating an immune
response and a method of treating a
condition utilizing hematopoietic cell
expression elements operationally linked
to nucleic acid sequence encoding
epitopes or heterologous polypeptides
which may be expressed as a fusion with
a cytokine;

Group III: Claims 22-28, and 33, directed to a
nucleic acid molecule and its use in a
method of treating a condition
comprising a hematopoietic cell
expression element operationally linked
to nucleic acid sequence encoding an
immunoglobulin molecule;

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Group IV: Claim 33, directed to a method of treating a condition utilizing a nucleic acid molecule comprising a hematopoietic cell expression element linked to a nucleic acid sequence encoding a hormone; and

Group V: Claim 33, directed to a method of treating a condition utilizing a nucleic acid molecule comprising a hematopoietic cell expression element linked to a nucleic acid sequence encoding a clotting factor.

The Examiner requests that one of the groups of claims be elected for examination. Although the restriction requirement is traversed for the reasons set forth below, Applicant elects the claims of Group II, claims 3, 4, 18-21 and 29-32, for examination. Applicant reserves the right to pursue prosecution of the non-elected claims in a later-filed application claiming the benefit of priority of the above-identified application.

The Restriction Requirement is traversed with respect to the division of the claims of Group II from the claims of Group III. While the claims of Groups II and III are patentably distinct, it is submitted that a thorough search of the claims of either group will likely reveal art relevant to the examination of the claims of the other group. Specifically, the claims of Group II are directed to methods for stimulating an immune

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response by administering to a lymphoid tissue a nucleic acid molecule containing a hematopoietic cell expression element linked to a nucleic acid sequence encoding one or more heterologous epitopes and to nucleic acid compositions comprising a hematopoietic cell expression element operationally linked to a nucleic acid encoding a heterologous polypeptide. The claims of Group III are directed to nucleic acid molecules comprising a hematopoietic cell expression element operationally linked to a nucleic acid sequence encoding an immunoglobulin molecule encoding one or more heterologous epitopes. Thus, a search of the claims of Group II will, of necessity, reveal information relevant to the examination of the claims of Group III and, therefore, division of the claims into these groups would result in duplicative searches. In addition, the classification of the claims of Groups II and III in the same class (class 435) further supports Applicant's position that division of the claims into these groups would result in duplicative searches. Therefore, examination of the claims of Group II together with the claims of Groups III should not be an undue burden on the Examiner.


Applicant elects the claims of Group II, claims 3, 4, 18-21 and 29-32, for examination and respectfully requests that the Restriction Requirement be reconsidered and that the claims of Group II be examined with the claims of Group III. No fee is deemed necessary in connection with the filing of this Response and Preliminary Amendment. However, if any fee is required, authorization is given to charge the amount of this fee to

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Deposit Account No. 03-0370. The Examiner is invited to call the undersigned agent or Cathryn Campbell if there are any questions.

Respectfully submitted,

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Date


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